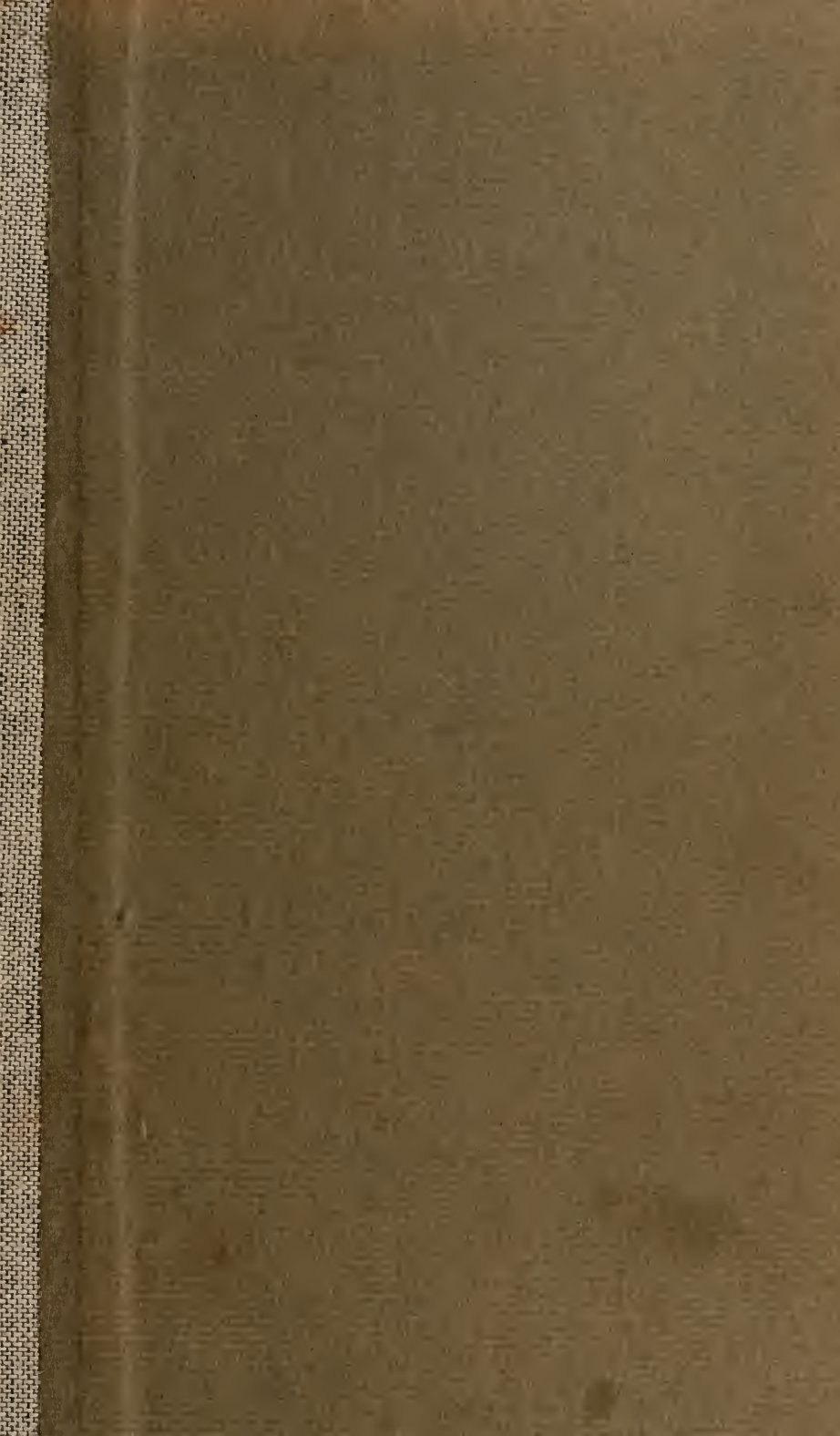




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CONSIDERATIONS

ON THE

PUBLIC EXPEDIENCY

OF A

Bridge

FROM ONE PART OF

B O S T O N

TO THE OTHER.



Boston :

PRINTED BY MANNING & LORING, NO. 2, CORNHILL.

JAN. 1806.

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Advertisement.

NO apology will be considered requisite for a calm and respectful examination of the merits of a public question, by those who are informed, that on the day of the last public town-meeting on the question relative to a Bridge from South-Street, a pamphlet of 62 pages was distributed by the Front-Street Corporation.

CONSIDERATIONS, &c.

AMONG the various projects of internal improvements which have distinguished Massachusetts since the era of her independence, none have been more obviously productive of advantage than our bridges over navigable waters. These, since the noble enterprize of Charles River Bridge, have been multiplied in all directions; and not only sister States, but foreign nations have adopted our models, and employed our artificers, to construct these useful fabrics. But as the opposition to enterprize is in proportion to its novelty and utility, so every scheme for a new bridge has been doomed to discouragements and conflicts; and it has been found by experience easier to surmount the obstacles presented by the natural stream, than the difficulties arising from the torrent of prejudice, and the worm of envy.

But of all the opposition hitherto marshalled against public improvement, none has been so distinguished for violence and perseverance, as that which has been excited by a proposal to build a Bridge from one part of Boston to the other, in a place which, though not less entitled to the benefits of its natural position, is more remote than any other, from this necessary accommodation. Yet it is believed that no bridge has been granted over a navigable stream, by which so few persons will be affected, and in so small a degree; and none except Charles River bridge to which public opinion has been more favorable. Could the scattered inhabitants of the banks of any one great river over which a bridge is now built, have clustered into one street, they might have

exhibited more formidable numbers of really interested opponents than crowd through Orange-street, to a bridge town-meeting ; and had their navigation and other property been collected into one view, it might in some instances have appeared not less worthy of protection than the wharves of the South-end. Fortunately for them and the public, they could not repair to the seat of government and fill the chambers of the Legislature with their extravagant terrors :—They could not surround the members at home and abroad, and persecute them into the rejection of a public good :—The bridges have been built :—The opposite shores have been united by the right hands of fellowship :—The country has prospered. In all instances opposition has been hushed ; and in many, rejoiced at its own defeat.

It may be advanced as a certain and universal maxim, that whenever a public question is proposed, its intrinsic merit ought first to be considered by those whose province it is to decide upon its fate. If a measure be not wise and salutary in itself, it is a loss of time to investigate objections, arising from the conduct or interests of individuals ; but if, abstracted from all private considerations, it promises to become beneficial to the public, the objections which arise from private interest are not to be regarded, unless they involve a question of *right*, as well as interest. In the pursuit of truth, it is a common and fatal error, to implicate and confuse the mind with objections to a principle, prior to a consideration of the merits and tendency of the principle itself. Whatever difficulty or embarrassment may arise in the proposed inquiry, they can be traced to this cause. A body of respectable though interested men, under the cloak of a corporation, availing themselves of the advantages resulting from organized combination, and unity of design and action, industriously divert the public attention from a view of the only question in which the community is interested, by their specious objections. This corporation, though by law invisible and intan-

gible, becomes divested of its legal attributes, and is every where heard, and seen, and felt. It speaks by its members, its neighbours, its lawyers, and by the mouths of all whose jealousy, envy, or compassion it is able to excite, by arguments irrelevant to the merits of a great public question, and founded either upon its own exaggerated fears and calculations, or upon the personal views, characters, circumstances, pursuits and principles of its opponents. It is therefore by no means wonderful, that the members of this corporation should in some instances have forestalled the avenues to those *public considerations*, which alone should influence the decision of impartial men. It is perhaps more wonderful, that the *violence* of opposition, notwithstanding their perseverance and address, should so soon be condensed into their own circle, and that the *appearance* of opposition becomes hourly less formidable. This change must be imputed entirely to the intrinsic merit of the project, which gradually forces itself upon the conviction of all who can either see or think ; and to that strong and natural affection for the welfare and prosperity of Boston, which compels her children to sacrifice their personal and political prejudices and jealousies, at any altar, dedicated to the common good, whether reared by the *profane hands of speculation*, or the generous energies of honest enterprize.

In pursuing the inquiry into the expediency of the proposed bridge, from South-street to South-Boston, let us not invert the natural order of things ; but let us first examine whether such a bridge will be a *public accommodation*, and then consider the objections suggested by *private interest*.

It is assumed as a fact, that the proposed bridge will shorten the distance more than half a mile, from the centre of the old town to the shores of the new district, as now travelled, and bring a great section of country, thus much nearer to this centre. To prove the public utility of thus diminishing the distance between the different parts or sections of the town, it

is needless to recapitulate many arguments which were in point, upon the original question of annexing the new district. It would be easy to show that the Commonwealth has no choice but either to encourage the growth of her metropolis, or to permit a constant and increasing disproportion between that and the rival cities of other States. It would be not less easy to demonstrate that the surplus riches of great cities naturally tend to centre in those, which are still greater; and of consequence, by stinting Boston within her ancient limits, no advantages would result to Salem, Newburyport, or Portland; but the surplus of their commercial capitals, together with that of Boston, would find their way to the greater markets of the southern cities, through want of accommodation at home, to the detriment of the whole commonwealth. But to enlarge upon these arguments is now unnecessary. The Legislature, after a full hearing of them and of the written remonstrances, and verbal arguments in reply, have solemnly decided *that the town of Boston ought to be enlarged, and it has been accordingly enlarged by an addition of 600 acres of land.* This question is therefore forever at rest. But this sanction of the Legislature upon a fair construction, cannot be deemed to be restricted to a mere extension of the limits of the town. If this alone were the object, a grant of land in the Province of Maine, or upon the extremity of Cape Cod, would have been more politic, than of a tract of land which was before useful for agricultural purposes, but which now, unless it be appropriated to *city objects*, has become entirely unproductive. It was then the evident design of the Legislature not merely to annex a new district of land to the capital, *but to encourage the settlement of it as a part of the capital*; to make it a section of Boston, not in *name* only, but in *truth*. Whatever was the intention of the parties immediately concerned in effecting the union, and whatever were the means by which it was accomplished, *the only intention which can honorably be imputed to the*

Legislature, was that of forming a perfect union of the old and new territory into one metropolis, subject to one government, and entitled to the same rights. If then upon experiment it is found that an obstacle still exists to the effectual success of this intention of government, and which it is competent to remove; and that one portion of the metropolis thus created, still languishes under that obstacle; *it would seem to be the plain duty and right of government to proceed to remove it, unless restrained by some contract or obligation, to which itself was party.* Considering Boston as one great town, it cannot be pretended, that the interest which the Commonwealth has in its prosperity, is confined to *a part*, and ought not to be commensurate with *the whole*. On the contrary, the causes which justified the conversion of the new district from country into town, require the aid of all reasonable means which are found requisite to perfect the object; and that system must be monstrous and unworthy of the patronage of any government, which confines and concentrates the population and growth of one part of the capital, and debars the other parts from equal advantages; which contemplates the town as consisting of two districts, after its incorporation into one; and which, after deciding that a new *section to a city* ought to be added and peopled, countenances a protracted struggle between one set of men to promote, and another to impede its settlement, and leaves it in a mongrel state, neither town or country.

To apply these principles. The town of Boston at present consists of two great parts or sections; one of which, though labouring under many remediless disadvantages for want of an original and regular plan, is still flourishing and populous. The price of land in this section is so high, as to amount to a prohibition of public buildings, new ship-yards, ropewalks, and various manufactories, which require the accommodation of large lots; and the gardens and back lots so requisite for health are constantly becom-

ing covered with buildings. The other section possesses all the natural advantages of the first. It is surrounded by navigable water, is laid out into regular and spacious streets with reservations for public use, and is equally with the old town adapted to the purposes of business, health and comfort. It is connected with a rich and increasing country by expensive and convenient turnpike roads. A few families only at present dwell within its limits; and the value of land is less than one eighth part of its average value in the other section. These two sections are connected by a bridge in a place *which serves for the convenience of neither*, and by which the latter is so far removed from the centre of business, that it can be expected to make but slow advances in population and prosperity. They are however capable of being connected *in another place which seems to have been intended by nature*; and thus the new part of the town would be brought more than half a mile nearer to the centre of the old part. It is agreed that in this event, population would rapidly diffuse itself over the new part; that the value of it would be augmented by buildings, wharves, ship-yards, rope-walks, manufactories and other accommodations; that the metropolis would thus be enlarged and enriched, and rendered not only a greater mart for the produce of the country, but capable of sustaining an increased proportion of the public burthens.

If upon this statement the utility of the proposed measure could still be thought equivocal, by those who are not familiar with the subject, it might be pertinent to advert to the opinions of those *public bodies*, who possess the best means of forming a judgment, and who, though likely to be more immediately affected by the event, are still interested, only as portions of the whole community, and are not influenced by the expectation of private advantage.

The waters proposed to be bridged form a great shoal or piece of flats, bounded by the towns of Bos-

ton, Dorchester, and Roxbury. It is true, without any exception, that upon every question relative to the *location* of a bridge, upon which these towns have expressed an opinion, they have uniformly decided in favor of *South-street, or its vicinity*. The town of Roxbury indeed made a shew of opposition to the erection of any bridge, but declared a preference for *South-street*. In the winter of 1804 a committee, appointed from every ward in Boston, reported in favor of placing the proposed bridge in *South-street*; and *this part* of their report was accepted by the town. Again, in the winter of 1805, since the present bridge was begun, the town of Boston, at a meeting so numerous as to require an adjournment from Faneuil Hall, voted by an immense majority, that it would be for the advantage of the town to have a bridge from *South-street*; and made it a standing instruction to their Senators and Representatives to promote the measure. (a) The town of Dorchester also, in 1804, chose a committee to co-operate in obtaining a bridge from *South-street*, and their selectmen, in 1805, addressed a letter to the selectmen of Boston, expressive of the same sentiments and wishes. (b) An impartial committee of both Houses, consisting of gentlemen living remote from the scene of contention, after examining the flats, wharves, and all the proposed scites, and after hearing counsel several days, made an elaborate report in favor of *South-street*. (c) In short, to deny this to be the most eligible and only fit place, is to resist the evidence of the senses.

If the foregoing cursory statement be not shewn to be incorrect and fallacious, the following positions appear to be sustained :

1st. That Government has decided, upon mature deliberation, that the town of Boston ought to be enlarged.

(a) See Appendix, No. I.

(b) See Appendix, No. II.

(c) See Appendix, No. III.

2d. That to presume the intention of Government to be merely to extend the boundaries of the town, without encouraging its settlement, is disrespectful and absurd.

3d. That the commerce and population of the new district will advance with a tardy progression, unless another bridge be granted, and of consequence the design of Government will be frustrated.

4th. That the decision of every *public* body, on the question of a *scite* for a bridge to South-Boston, has been in favor of South-street.

5th. That a bridge from South-street would promote the settlement of the new district, bring a rich and increasing country more than half a mile nearer to the capital, be grateful to the towns of Dorchester and Boston, enlarge the domestic market for country produce, augment the means and accommodations for business, add to the relative value of the town, conduce to its health and ornament, and keep its riches within the State.

Having taken this general view of these *public considerations*, which are thought by the friends to the proposed measure to be conclusive in its favor, it remains, after ascertaining the source whence the opposition proceeds, to examine the claims and objections upon which it is founded. It has already been stated, that the only towns which are immediately affected by this project are Boston, Dorchester and Roxbury. The two former are in favor of the project, and the latter probably opposed to it, by a small majority. It is believed however that Roxbury can have no other interest in the opposition, but such as arises from her connexion with the *canal*, so called. It would appear invidious to enlarge upon the pretensions of this canal interest. They are to be estimated by the inspection of all who choose to visit it. Roxbury has become a port of delivery, since the building of one bridge, and it is hoped will reach whatever destiny the laudable enterprize of her inhabitants may lead her to attempt. But there can

be no objection from Roxbury, which is not involved in those of the Front-street Corporation; and their candid citizens will not pretend, if *these* are obviated, that *those* of Roxbury canal can maintain a solitary and sufficient standing.

By this time a stranger who had only heard of the violence, bustle and agitation of the public mind, produced by this controversy, finding that the principal public bodies have always been on one side, would be at a loss to account for any remaining source of opposition equal to the supply of such copious and turbulent streams. But how will his astonishment be increased, on learning that this opposition originated with a few gentlemen, owners of wharves at the southerly part of Boston; that their friends and neighbours in *that quarter* joined them, through persuasion, the sympathy of neighbourhood, or the love of peace, but without *a shadow of real interest* at stake on the issue; that an opposition *in sincerity* has never extended beyond this section of the town, though *in appearance* it has sometimes embraced individuals out of it; that the only persons who could by *any possibility* be injured by a bridge, are these wharf-owners, now known as the Front-street Corporation; that these friends and neighbours begin to fall off, and that the opposition is gradually melting down and condensing into this same Corporation; and that even among them all, the natural heat of a few is requisite to keep alive the artificial ardour of the rest.

These assertions would seem scarcely credible to those who are unacquainted with the town, and this particular section of it. It has unfortunately happened that the citizens of that quarter have conceived the projects of Charles River, West-Boston, and South-street bridges successively to be hostile to their interests. It is no more than justice to allow that those citizens form a highly worthy, industrious, intelligent, and respectable class of men. But it is not to be denied, that coming mostly from the country, and engaged in similar pursuits, they

constitute a sort of great clan or family, of the same habits, and opinions, and liable to common, and consequently to erroneous impulses. Thus it is only requisite that a few, (whose interests are alone concerned) should cry out, "The South-end is in danger, to excite universal alarm; and he who remains unmoved is a bad neighbour. Being themselves really disturbed, they mistake the violence and sympathy of their own emotions for *an agitation of the public mind*; and this agitation becomes an argument in their mouths for the promotion of their object. It was in this spirit that they formerly resisted, *en masse*, the proposal for Charles River and West-Boston bridges, and that they at one period manifested an opposition both loud and deep, to another bridge in a quarter of the town now totally destitute of that necessary accommodation. Such indeed is the influence of these habits, that the inhabitants of the western side of Orange-street, who have *no water privileges*, and who could have nothing to fear from a bridge, but the diversion of the travel, have acquiesced in the formation of a new street, which, however useful in itself, will infallibly divert the principal travel, and leave their estates forever *in the back ground*.

Thus it may be safely affirmed, that the only real *interested* opposition, however magnified in appearance, which remains to the project, is *The Front-street Corporation*, or less than thirty individuals. The objections urged by these gentlemen against the proposed bridge, may be classed under two descriptions. Those which are ordinary, and applicable to all bridges over navigable streams; and those which are extraordinary and peculiar to the present case. The ordinary objections all resolve themselves into one; the damage incident to impeding the navigation of the river. Whenever a project of this nature is proposed, it is a matter of course for those who think themselves interested, to magnify the importance of their water privileges, and the danger which threatens to impair them. There is a certain post-road

always travelled upon these occasions, and a little code of principles concerning the rights of nature, and the laws of prescription, which the traveller carries in his wallet. This being nearly the same in all cases, it might be useful to compile, and print, and post up, on the State-house, if former Legislatures had not rendered this labor discouraging by so many repeated grants and decisions, that it is now universally considered as *the right and policy of Government to bridge over navigable streams, whenever the public interest requires the measure, without respect to any private interest.* For the same reason it is deemed unnecessary to expatiate upon the nature and extent of the impediment to navigation arising generally from bridges; or upon the facility afforded by wharves, and draws, built upon a proper construction. Upon this subject every man is informed; and every man knows that in all instances, great bridges have been found eminently useful to the public; and in no instance greatly detrimental to the estates situated above them. Let then the opponents produce their elaborate calculations of square feet of wharves, and tonnage of vessels, and of their stock of wood and lumber. They cannot in their own favor vary the principles which apply to this question from those on which other cases have been decided. On the contrary, it is obvious that the number of persons, and quantity of interest likely to be affected, are less than they have been under many former grants; and that such is the flow course of the stream, and the nature of the navigation over the flats, that a bridge would aid, instead of impeding the navigation. But admitting, for the sake of argument, that a bridge would render the navigation to Front-street wharves less commodious; one conclusive answer which has often been given, should forever silence the proprietors. It is:—*That the Front-street wharves must forever remain the principal mart for wood, lumber, and bulky materials for the consumption of the old town, which is the only business in*

which they are now occupied, and to which alone they are adapted. If this assertion can be maintained, it follows that it is perfectly immaterial to the proprietors, whether the bridge be an impediment or otherwise, and whether there be one bridge or more. The impediment like all things of this nature, if it does not amount to a prohibition, is capable of being estimated by money. It is an item of *expense*, which, when there is no competition, must fall on the consumer. If one man, or a company of men are secure of possessing and monopolizing the whole of a particular article which is in constant demand, the charges advanced by them on such article must be paid by their customers; they are mere duties. Now no man will have the hardihood to deny that the wharves in *Old Boston* which are below the existing bridges, have become so valuable, by reason of the depth of water, and of their local position, that the wood and lumber business is nearly excluded from them; and that the daily improvements on and near them, must banish this trade to another part of the town. But there is no other part in which it can be carried on with equal convenience, as at the Front-street wharves, even after the erection of a bridge. The extensive flats admit of large and cheap wharves, built upon piles. The shallow waters are unfit for foreign navigation. The stock used in this trade is there accumulated. The merchants who deal in it have the command of the capital; and the coasters must resort thither, having no other place, except the opposite shore; and the stock purchased on *that* shore can never come into competition in the market *on this side*, as the toll of the bridge, and the expense of carriage, will forever exclude it. Independently therefore of a mass of fact and argument, which may be adduced to shew that a bridge would be no impediment to the navigation, it is certain that the loss arising from the impediments (if any) will be sustained, not by the proprie-

tors of Front-street, but by the town of Boston, which is willing to sustain it.

If by the preceding suggestions, the impartial inquirer should be led to conclude that the utility and expediency of the proposed bridge are established, and that the interest opposed to it will neither be affected *in such numbers, or to such an extent, as to balance the public advantage*, the conclusion seems irresistible, *that it ought to be built.*

But the most decisive objection, in the estimation of those who make it, is still unanswered. It is urged that a compromise was made, upon a former occasion, between the Front-street Corporation, and the petitioners for a bridge from South-street, which not only obliges those petitioners, *forever to relinquish the pursuit, but restrains others from making, and the Legislature from sustaining an application for a bridge at any place below it.* This suggestion, in the extent of its consequences, is equally new, curious and alarming. It is not contended, that when the location of a bridge, turnpike or canal has been sanctioned by the Legislature, in a place sufficiently adapted to the public convenience, it would be just, while circumstances remain the same, to grant another bridge, turnpike or canal, so near the former, without the consent of the first proprietors, as to destroy, or in a great measure impair the profits of the original undertaking. And if in the present instance the proprietors of South-Boston bridge were the opponents to the new bridge, they might have at least a colour of reason to support their remonstrances.

But that two parties of private petitioners should intend a compromise of different objects, which is in its nature obligatory upon other parties, public bodies, and the whole community, and which binds the Government to renounce a public benefit and submit it to positive and palpable inconvenience, is nothing less than a charge upon those parties *of usurping the sovereign power of the State.* Any individuals treating with this view would be subjects either

for a prison or a mad-house. Nothing but the total blindness in which passion and interest obscure the understanding of intelligent men, could induce that respectable Corporation to dream that any compromise could be binding on those who were not parties to it. If they disclaim making such an inference, it is then superfluous to place reliance upon this pretended compromise; for whatever were its contents, *it concludes nothing to the present question, unless it binds the inhabitants of South-Boston and South-street, the towns of Boston and Dorchester, and the Legislature itself.*

For the more perfect satisfaction of those, upon whose minds impressions have been made by the rumours respecting this compromise, (d) a copy of that instrument is subjoined, and the nature of it shall be examined. It is intended, however, to confine the examination strictly to the instrument itself, and to such conclusions as can be demonstrated to arise from it. Invitations or provocations to go beyond this limit, and to describe the events which preceded, the motives which influenced, and the conversations which accompanied it, are avoided, as merely tending to recrimination and dispute, and furnishing no fact or document upon which an unbiassed mind can safely rely. Besides, the dangerous notion of making a private compromise the basis of a legislative decision, would be still more exceptionable, if the terms of such compromise, fairly reduced to writing, were subject *to the verbal explanations of the parties, with respect to their motives or to objects not specified in the instrument.* All deductions implied from the nature of the contract are fair, but collateral circumstances and observations are totally foreign to the purpose. Such facts only will be selected as are notorious and supported by public records, and such as are requisite to make the agreement intelligible.

In the winter of 1804, four persons, viz. Messrs. Tudor, Mason, Otis, and Greene, became the proprie-

(d) See Appendix, No. IV.

tors of about 150 acres of land on Dorchester Point. The residue, being about 450 acres, remained in the hands of the original proprietors. The gentlemen first named repeatedly declared in public town-meeting, that they formed *an association by themselves, and had no authority to make any stipulation for the other proprietors, or to assume the least responsibility or expense on their account.* Two of these gentlemen, viz. Messrs. Tudor and Greene, in behalf of themselves and associates, petitioned the Legislature for leave to erect a bridge from South-street; and all the proprietors united in *another petition* for the annexation of Dorchester Point to Boston. The other interests which did not join in the petition for a bridge from this place, but which had publicly declared in its favor, were Boston, Dorchester, and especially the inhabitants of Dorchester Point and the vicinity of South-street. The interests appearing to be opposed to *any bridge* were the town of Roxbury, the inhabitants of the South-end, and other individuals whose names appeared to sundry remonstrances. A committee^(e) of both Houses reported favorably to the petition for a bridge from South-street. To prevent the acceptance of this report, Edward Tuckerman and thirteen others, for themselves and associates, petitioned for leave to make a bridge in the place where it is now made, and to make a street from such bridge to Rainsford's lane. Soon after this, the above-mentioned agreement or compromise was made between Jonathan Mason, Harrison G. Otis, *in behalf of themselves and their associates, on one part,* and William Brown, Arnold Welles, Josiah Knapp, Benjamin Goddard, *in behalf of themselves and their associates, on the other part.*

Upon this agreement as recited, let us inquire, Who were the parties? What is the fair construction of its terms? Has it been executed? Will the opponents suffer any loss or damage, if another bridge be erected, IN CONSEQUENCE OF THIS AGREEMENT?

The parties are those persons, who are named in the instrument, and their associates. It

(e) See Appendix, No. V.

has already been stated, that the names of the persons forming the association, of which Messrs. Mason and Otis were members, had been *publickly and repeatedly announced*. But the names of those composing the association represented by the other gentlemen had never been stated, though it was known to consist of others, as well as of the immediate parties. It follows that Messrs. Brown and company well knew *all* with whom they contracted, but that Messrs. Mason and Otis did not know all the contracting parties of the other side; and it would be more reasonable to pretend that the former represented the town of Roxbury, and the individual remonstrants, which yet is not pretended, than that Mason and Otis represented any but Tudor and Greene. In confirmation of this statement, it was also publickly known that Mason and Otis were extremely censured by the South-street inhabitants, as having deserted their interest; that the Representative from that part of the town declined voting on the question, and that the inhabitants of South-Boston published a formal protest, before any expense had been incurred by the Front-street Corporation; and it is in the highest degree improbable, if not absurd, to pretend a belief that Messrs. Mason and Otis meant to pledge or bind *themselves*, in a penalty of 50,000 dollars, for the inhabitants of South-street, and of the peninsula, amounting to many hundreds, who were interested in their success, but who contributed nothing toward their expenses.

Having ascertained the parties, the terms of the agreement next demand consideration. They consist of two simple covenants, *by which one party is bound to build a bridge, and the other to build a street*. This is the *entire* compact. Let those who have heard the outcry made upon this compromise, and about breach of faith and honor, take the trouble to peruse it, and if able, let them suppress their astonishment. *Both parts of this agreement have been executed with good faith, and the obligations arising from it are discharged*. As the terms of the agreement are silent

upon the subject of a bridge from South-street, let the inquiry be here met, whether by a fair construction, or implication from its nature, it results that even Mason and Otis, and their associates, were bound to forbear their exertions for another bridge, *after that session* of the General Court, in which one bridge was granted. It sometimes happens, in contracts made between the weak and the designing, that clauses are interpolated or omitted by the craftiness of the latter, which quite pervert the intention of the parties. But that men of common sense, pretending to treat upon an important subject, with the aid of counsel on both sides, should form a contract about *another matter*, in which the *main subject* is not mentioned, is a case which no temperate imagination can conceive to be possible. Yet this is the case which the public have been called upon to believe. We are told, with affected gravity, that it was the *intention* of the parties, that a bridge from South-street should be forever abandoned. Still this object, so important to both parties, the subject of all their hopes and fears and controversies, is never *once mentioned*, in a formal instrument, drawn for the purpose of expressing their mutual intentions. One party bind themselves in a heavy penalty to perform a *secondary* object, in building one bridge; but it was forgotten or omitted to bind them to forbear attempting a much more *essential* object by procuring another. To persist in the confutation of a presumption so bold and unfounded, would be the only circumstance that could give it colour. The mind is irresistibly forced to the conclusion, either that no stipulations relative to another bridge were required, or that they were required and refused, as inadmissible and ineffectual. In either alternative, they are equally out of the question.

Such is the simple statement of this famous misnamed compromise, and of the legal and equitable deductions arising from it, stripped of the specious glosses imposed by distempered imaginations. Let every honorable man examine it for himself, and de-

cide as a juror, a judge, or a chancellor, whether *even the original parties* of the first part are bound in law or equity to surcease their endeavours to obtain another bridge? Whether, with so great an interest at issue, they could be supposed to make an abandonment of it, without the *least consideration*; and whether this abandonment, if intended, would not have been *expressed*? They consented, indeed, to withdraw their petition at that time, and to make a great sacrifice of property, by building a bridge in another place. If the Corporation allege their belief at the time, that the mutual operations under this agreement would fortify their objections to a future bridge, the proprietors may with equal truth insist upon their expectations, that these operations would facilitate the attainment of it. This chance each was willing to take; and if the agreement itself be not obligatory upon the proprietors, in the sense contended for, nothing done by the Corporation, *in consequence of the agreement*, ought to bind them, whatever loss or expense might have attended it.

The remaining question, therefore, whether the Corporation will sustain a loss, *in consequence of this agreement*, is only a question of curiosity, which shall be examined, merely to shew a very different result from what the Corporation have attempted and will attempt to establish. IT IS A FACT, CAPABLE OF THE clearest demonstration, THAT THE FRONT-STREET CORPORATION, IN THE EVENT OF ANOTHER BRIDGE BEING BUILT FROM SOUTH-STREET, ARE GAINERS AND NOT LOSERS BY THE COMPROMISE. To prove this, it is not incumbent to shew that the Corporation will be in a better condition than if it had *incurred no expense whatever*; though even *this point* will appear to be *incidentally* established. It is only requisite to shew that whatever has been the amount of their expense, *under the compromise*, it is less than it would have been *without it*. For this purpose, it must be recollected, that in the winter of 1804, the members of the Corporation applied to the

Legislature for permission to build not only the present street, *but the existing bridge*. Suppose this voluntary offer had been embraced by Government, and that the petition for the *South-street bridge had been referred or rejected, against the will of the petitioners*, which is supposing all the Corporation could either ask or expect. They would then have incurred not only the same expence, which has arisen from the street, but the addition of fifty-six thousand dollars for a bridge. This they must have done, taking *the same chances* against them for a *future bridge* at South-street, which now exist. No pledge consistent with the Constitution could have been given by the Legislature, that the interests at that time rejected should not finally prevail. The same protest from the inhabitants of South-Boston, the same exertions of various petitioners, the same votes of Boston and Dorchester, would have haunted them with the apprehensions of their final prevalence ; and the unchangeable fitness of the measure would then, as well as now, have promised ultimately to insure success. But it is apparent, beyond all dispute, that whenever another bridge is granted, the present bridge will become unproductive, and of little use, (except as an avenue to the new street.) *The loss therefore arising from this bridge would have fallen on the Corporation, had it obtained the prayer of its own petition.* Yet in this situation it offered to place itself. Now the operation of the compromise relieved the Corporation from this hazardous part of the enterprize, by taking the bridge from its hands, and leaving to it only the expence of the street, by which the estates of the members under *any circumstances*, have acquired an immense additional value. Thus the only consideration, paid by the Corporation to the other party, was in the relinquishment of a heavy tax ; and because the latter agreed to pay this, it is contended that they are bound to the Corporation in all cases whatsoever. In other words, the Corporation were content to embark in two expensive enterprizes for their own benefit ; one of which was in all events safe, lucrative

and advantageous to their estates ; the other of which never promised gain, but was attended with the hazard and probability of loss. The last was relinquished by them, and assumed by others. The probability of loss becomes realized, by the building of another bridge. The benefit of *both* enterprizes remains forever with the Corporation. The loss of *one*, falls exclusively upon others. Such is the cruelty and injustice offered to the Front-street Corporation!

The only evasion which ingenuity can suggest to this statement is, that had the members of the Corporation anticipated the erection of another bridge, they would not have been induced to incur the expense of the street. But unless their senses were bewildered, they must have foreseen at least a *chance* in favor of such other bridge, and the words of their petition certainly contemplate it as a measure to be adopted “ at some future period, when *the public exigencies should require it.*” The question is not, however, what might have been the conduct of timid individuals, under certain impressions, but whether they will have just reason to repent of their exertions? It is not whether the expense would have been incurred in other circumstances, but whether their estates are not better by all the expense?

It is, indeed, a mere fallacy to confound the merits of the main question, with the pretended expense of their street and improvements. The street is calculated to add value to their lands, but it imparts no additional worth to their water privileges, which remain the same ; nor can twenty bridges diminish the value of their lands on this street, whatever effect they might produce upon the navigation. Further—the making of this street will be one of the most profitable speculations ever adopted in Boston. It forms a handsome front for a tract of land which was formerly not capable of improvement ; and has converted flats, docks, and quagmires, into scites suitable for house-lots. It has given a new face to that quarter of the town, and stamped a permanent value upon it, which no bridge can affect. The ex-

pense of the street has been greatly exaggerated for special purposes. An attempt is subjoined to these sheets, to form an estimate of this expense, and of the increased value of their lands.(f)

However distant from accuracy these calculations may be, it is still a truth, that the making of land in the town of Boston is considered a very profitable employment, which has been adopted not only by this Corporation, but by others in various parts of the town, under less favorable circumstances. If the expense incurred by the Corporation to prevent a bridge, be admitted as an argument; by parity of reason, the disbursements made by the proprietors of South-Boston with a view to promote one, ought also to be regarded. These have greatly exceeded the highest sum which it is pretended has been disbursed by the Corporation, as also appears in a subjoined estimate.(f) It is likewise true, that while the land reclaimed by the Corporation, will be not less valuable after the building of another bridge than it is at present, the land made by the proprietors at South-Boston will be of little value comparatively, until a bridge be granted; and consequently, the monies expended in it will be dormant, and unproductive to the proprietors and to the public.

Viewing then the compromise, and the consequences attending it, in any fair light, it will be found, that far from enfeebling the pretensions of the original parties to another bridge, it affords the strongest basis for the support of their claims. They have actually disbursed 56,000 dollars for a bridge, which, in the event of another, is *a mere donation for the advantage of Front-street.* They have exonerated the Corporation from the unprofitable part of a contract which it ~~is~~^{was} willing to make, and they have been instrumental in encouraging improvements that have greatly enhanced the value of its estates. They have secured it at their own expense, from being cut off and placed in a state of exile; and are, in every view, benefactors to that Corporation. It

was to strengthen their pretensions for another bridge, that they assumed the burthen and *the ridicule* of an expensive bridge, in a spot which excites the wonder and derision of every beholder; and which they could have had no other conceivable inducement to take from shoulders that were willing to bear it.

Let then the true question be met upon its merits. Let it not be presumed that the public or the Legislature will become partisans in the collisions of private interests, or the umpires of personal disputes. A thousand suggestions respecting the motives, characters, riches or poverty of parties, are worse than useless. If the measure be a public object, it will probably be pursued until it be attained: It is impossible that it should be relinquished.

During its existence, animosities may be engendered and controversies grow warm, and those who oppose will conduct as if they considered their all at issue. But in these cases the course of nature is invariable, and tranquillity succeeds the storm. The harmony of the town will be interrupted no longer than opposition is unreasonably continued to its wishes and interests; and the charter for a new bridge, will be the signal for peace and reconciliation among all parties. On the other hand, by deferring this grant, the opposite shores of Front-street and South-Boston will be gradually peopled by two *hostile* battalions; who, instead of cultivating the harmony and feelings which unite citizens of the same town by the bonds of a common interest, will be involved in perpetual contest; and the Fathers of our Country will find, that the domain which they have added to the town, with the intention of promoting its prosperity, is a *fatal present*—*pregnant with eternal jealousies and strife.*

A P P E N D I X.

N^o. I.

At a meeting of the Freeholders and other inhabitants of the town of Boston, duly qualified and legally warned in public town-meeting, assembled at Faneuil Hall, and from thence by adjournment, at Mr. Murray's meeting-house, on Friday, the 8th day of February, A. D. 1805, at 10 o'clock, A. M.

THE article in the warrant, viz. "To act upon the petition of the inhabitants of South-Boston, and others, to take the sense of the town, whether they will direct their Representatives to use their endeavours to obtain a bridge to South-Boston, from South-street, or the parts adjacent," was read, as also the petition, and other papers relative thereto; and after a full debate thereon, it was *moved and carried*,—That it will be a great advantage to the town to have a bridge from South-street, or some place near it, to South-Boston, as soon as the same can be conveniently erected; and that the Representatives of the town, and Senators for the county of Suffolk, be requested to solicit the Legislature from time to time, and procure an Act to be passed for that purpose, without delay.

Attest,

WILLIAM COOPER, *Town-Clerk.*

N^o. II.

DORCHESTER, JANUARY 24, 1805.

To the gentlemen Selectmen of the town of Boston.

WE, having been informed that the town of Boston is soon to meet, in order to instruct their Senators and Representatives in the General Court of this Commonwealth, to support the petition of the inhabitants of South-Boston, and others, for a bridge from South-Boston to South-street, or

thereabouts, which information we received with peculiar satisfaction.

Gentlemen, you will not think it intruding in our offering to you our sentiments on this to us important subject; when we consider that not one year since there was 600 acres of the best land, with a number of the inhabitants of Dorchester, taken from it and annexed to Boston, without the smallest consideration; therefore, gentlemen, permit us to say, that if a toll bridge is to be built, it ought, in our opinion, to be built where it will accommodate the public, and bring them the nearest route to the centre of business in Boston. We are convinced that the bridge now building will not answer the object wished for by those who are in the habit of supplying your market, and furnishing the inhabitants of Boston with wood, bricks, stones, &c. &c.

Gentlemen, for the above reasons, we shall do all in our power in support of said petition; and again most earnestly solicit your endeavours to the same end.

We omit detailing the great advantages we think it will be to the town of Boston, to have a bridge from South-Boston to South-street, knowing, as we do, that the inhabitants of Boston are always ready and willing to embrace every opportunity, not only for their interest, but the interest of the Commonwealth at large.

Gentlemen, your obedient servants,

JOHN CAPEN, jun.

EBENEZER TOLMAN,

THOMAS MOSELEY,

EDW. W. BAXTER,

} *Selectmen of
Dorchester.*

N^o. III.

R E P O R T.

THE Committee of both Houses, to whom was committed the petition of William Tudor and Gardner Greene, praying for leave to build a bridge from the foot of South-street, in the southerly part of the town of Boston, to the north-west-erly point of land on Dorchester Point, opposite said street; and also the petition of William Tudor and others, inhabitants and owners of land situated in that part of the town of Dorchester commonly called Dorchester Neck; and also the remonstrance of a large number of the inhabitants in the south part of the town of Boston, and from the towns of

Roxbury and Dorchester, and proprietors of Roxbury Canal; having met all the said parties, and at their special request repaired to the said South-street, accompanied by their agents, and from thence proceeded to view all the wharves on the southerly shore, as far as Deacon William Brown's dwelling-house; and from thence proceeded to Dorchester Point, opposite Castle Island, and carefully viewed and examined the shores, banks and land adjacent, as far westerly as opposite to South-street or Dorchester Flats, so called; and having further particularly noticed the Roxbury canal, in all its parts and dependencies: And afterwards having again met the said parties, and examined divers witnesses touching the premises, and fully heard them by their learned counsel four days in succession, and thoroughly investigated the whole subject, and carefully considered the same with all connexions, and in all its immediate and ultimate consequences, so far as the committee have been able to embrace them.—The committee are of opinion, that the erection of a bridge from the foot of South-street to Dorchester Neck, as above mentioned, and the annexation of the land contained in the peninsula called *Dorchester Neck*, with the *inhabitants* thereon situated, agreeable to the petition of William Tudor and others, for that purpose, would greatly conduce to the future prosperity of the town of Boston, by opening a new and useful avenue to the town, by enlarging its boundaries, increasing its population, and giving full scope to its commercial enterprise, the tendency of all which is to promote the public interest and convenience.

The committee beg leave further to observe, that in prosecuting the subject committed to their consideration, they have not been unmindful of the remonstrants; and while they are impressed with the great private and public utility that would accrue by carrying into effect the laudable and extensively beneficial objects embraced in the aforementioned petitions, they recognize with peculiar pleasure the sentiments expressed in the several remonstrances.

That the Government will not interfere and sacrifice the rights and property of one individual for the benefit of another; nor will they do it at all, but in cases of public necessity, and where the public good requires it; and then, not without just and equitable compensation.

Under this impression, the committee ask leave to report, that William Tudor and Gardner Greene have liberty to bring in a bill for erecting a bridge from South-street to Dorchester Point, as set forth in their petition, conformable to

such rules, regulations and conditions as the Legislature shall enjoin. The committee, however, conceive it their duty to observe, that it is of importance that the draw or drawers to the bridge should be well constructed, and the bridge be well lighted at the drawers, during the season when vessels are most frequently navigating the waters above the bridge; and the committee are of opinion, that for the safety of vessels, and to facilitate their passing the drawers at said bridge, the proprietors should provide and constantly keep, at their own expense, from the first day of April to the first day of December, in each and every succeeding year, one good boat and two men, whose duty it shall be, in the best possible way and manner, to assist all vessels in passing the drawers, without the necessity of casting their anchors. And the committee are further of opinion, that the proprietors of said bridge ought to pay annually, after the completion of the same, the sum of *eleven hundred dollars*, to a committee chosen by the wharfingers above the bridge, meaning to include the Roxbury canal wharf, or to a committee chosen or appointed in such other way as the wisdom of the Legislature shall direct; which sum shall be annually expended in such way and manner as shall, in the judgment of the committee, with the advice of the wharfingers, most effectually aid and encourage the navigation above the bridge.

And as it is impossible to determine with precision the effects of the bridge on the navigation above the same, and of course to establish any rule that will insure equal justice between the petitioners and the remonstrants concerned in navigation, the committee think it proper to suggest the propriety and necessity of providing in the bill, that the proprietors may, at the expiration of three years after the completion of the bridge, apply to the Governor, who shall, with the advice of Council, be authorized to appoint a committee of three persons to hear the parties, and so to regulate all matters touching the premises, as to them shall seem just and equitable; providing however, that they shall not increase the sum above mentioned to be paid annually. And that it shall be further lawful for the proprietors to make similar applications once in five years forever afterwards, that similar process may be had thereon.

E. STARKWEATHER, *per order.*

N^o. IV.

Articles of agreement made and concluded this 18th day of February, A. D. 1804, between Jonathan Mason and Harrison Gray Otis, of Boston, Esquires, in behalf of themselves and associates, of the first part, and William Brown, Arnold Welles, Esquires, Josiah Knapp and Benjamin Goddard, Merchants, all of Boston, in behalf of themselves and associates, of the second part.

WHEREAS the said parties of the first part contemplate, and intend to attempt to procure from the Legislature of Massachusetts, an Act of incorporation, authorizing them to erect a bridge, from the town of Boston's Landing, so called, in Orange-street, in said Boston, or from some place southerly thereof, to Dorchester Point; and also to procure, if practicable, the annexation of said point to the town of Boston. And whereas the said parties of the second part, with their associates, contemplate, and intend to form and fill up a new street, running from said bridge to Rainsford's-lane, so called, as is hereafter described.—Now this agreement witnesseth :

First. The said parties of the first part, *for themselves, their executors and administrators*, do hereby covenant and agree with the parties of the second part, their executors, administrators and assigns, that they will apply to the Legislature of this Commonwealth, and use their utmost endeavours to obtain an Act of incorporation, for the purpose of enabling them to build a bridge, from the Town's Landing in Orange-street, or some place south thereof, to Dorchester Point, and another Act for annexing the said point to the town of Boston; and that when said Acts shall be obtained, they will, with all reasonable dispatch, commence the building of said bridge, and complete the same.

Secondly. The parties of the second part, for themselves, their executors and administrators, do hereby covenant with the parties of the first part, their executors, administrators and assigns, that they will unite in their sincere and constant endeavours to enable the party of the first part to obtain the said two Acts of the Legislature, until the same shall be obtained: And that whenever the Act authorizing the erection of said bridge shall have passed, and the proprietors thereof shall begin to build said bridge, they will forthwith lay out and make, at their own expense, a certain street, or public highway, which shall run from Rainsford's-lane, so called, until it comes to said bridge; the eastern line of said street

to be at such a distance from the south-western corner of Deacon Brown's house, in Orange-street, that no part of said eastern line shall be nearer than 350 feet from the eastern line of Orange-street; said road to be at least 50 feet wide in all its parts, with a good and sufficient stone facing next the sea; and that the same shall be completed on or before the first day of November, A. D. 1805.

And to the true performance of their respective agreements, the parties hereby bind themselves to each other, in the penalty of *fifty thousand dollars*.

In testimony whereof, the parties have hereunto set their hands and seals, the day and year before written.



N^o. V.

WE the subscribers, inhabitants and owners of land on the peninsula of Dorchester Neck, (so called,) lately annexed to the town of Boston, having seen a notification of the 13th inst. requesting a meeting of certain proprietors of lands and flats, lately incorporated for the purpose of making a street from Rainsford's-lane to the public landing, at the south-end of said town,—think it proper in this way to inform the said proprietors, and all concerned, that we were petitioners to the Hon. General Court, for the annexation of said peninsula to the said town of Boston, with a view, and from a strong expectation, if not on the express condition, of having a bridge erected from South-street, or some part of Wheeler's Point, to the said peninsula; and feel not a little disappointed and mortified on finding, that several gentlemen who have lately purchased lands on the said peninsula, who were petitioners for a bridge from South-street, and whom we were induced to consider as having the same interest with ourselves, have been prevailed on, without our consent, or consulting us in any degree or manner whatever, (and that after the Hon. Court's committee had reported most favorably on their petition,) to relinquish the said object, and agree to have a bridge built, connecting the said town with the said peninsula, in an indirect manner, and so as by no means to answer our expectations, or comport with our wishes.

We do not, however, consider ourselves as bound by the doings of the gentlemen above referred to; and hope, after having made this public declaration, previous to any expense being incurred relative to the street above mentioned, we shall

not be considered as acting an unfair or ungenerous part, should we use all justifiable and regular means, (as we undoubtedly shall,) in future, to obtain a more direct and convenient communication between the town of Boston and the aforesaid peninsula, than the one now contemplated.

MOSES EVERETT.

HENRY GARDINER.

MARY CLAP.

JONATHAN BIRD.

JAMES EVERETT.

JAMES BLAKE, *for himself
and heirs.*

March 16, 1804.

Nº. VI.

Estimate of the Expense of making Front-street.

Length 3050 feet, breadth 50, depth 10, equal to about 7000 squares of 216 cubic feet, at 2 dollars per square for filling, - - -	dols. 14000
6100 perch of stone laid, at dols. 2:50, - - -	15250
	<u>29250</u>
Add for inside walls, drains, lamp-posts, &c. 25 per cent.	7312
Whole cost, - - - - -	<u>dols. 36562</u>

The above estimate is founded upon prices paid for work on the opposite shore, carried on at the same time; but it having been confidently asserted that the assessments amount to 21 dollars per share, let it be so assumed, and it will give for the expense 64050 dollars.

Let us see the value of this new made land and of south-end estate, notwithstanding the erection of Charles River and West-Boston bridges, and the apprehension of a bridge at South-street.

In the years 1794 and 1796, Mr. David Ellis purchased a piece of land, measuring south on Harvard-street 98 feet 6 inches, and westerly 233 feet, running down to low-water mark. For this land, being 22960 square feet of upland, with a house, distill-house and utensils, and other buildings, wharf and flats, he gave, as appears by the deeds, dols. 6383:33.

In the summer of 1805, *since the bridge and street were begun, and since the vote of Boston in favor of South-street Bridge*, Mr. Ellis has sold three pieces of upland on the west side of the street, making 100 feet thereon, and averaging about 66 feet deep, (exclusive of 10 feet which the purchaser must always keep open,) for - - - - - dols. 4850

He has sold a piece of flats on the east side of Front-street, and bounded thereon 100 feet, for - 5000

Total, - - - - - 9850

Deduct whole cost, - - - 6383

Expense of making 100 feet of street, 2100

8483

Remains (besides at least two-thirds of his upland, and his house, buildings and wharf) more than he gave for the whole, - - - - - 1367

These sales of Mr. Ellis shew the present value of the back land now brought into view, to be 73 cents per square foot; but as they are the first sales, and as the proprietors are generally men of great fortune, who can hold their lands for a price, it is a moderate estimate to rate it at 75 cents per square foot.

The land between Orange-street and the west side of Front-street must be at least 300 feet wide (by the Act of incorporation.) Suppose the first 100 feet to be attached to the homestead, and laid out of the question; there remains a tract of 200 feet by 3050, included within the west line of the new street, which when filled up will be saleable for house lots; this tract is equal to 610000 square superficial feet. But as a part of this land was before filled up, and useful for some purposes, take only one half as being mere dock, and requiring to be entirely filled up, leaves 305000 square feet.

305000 square feet, at 75 cents, is now worth dols. 228777:50

Suppose it, as before, 10 feet deep,

(which is a great average,) it is equal

to about 14120 cubic squares, which

at 2 dollars each for filling up, is 28240

Add the expense of the street, - 64000

92240

Nett profit, after charging all expenses on the made land, &c. leaving the water privilege clear, 136537:50

But to this ought in justice to be added, the increase of value of the next 100 feet by 3050, which is at least 50 per cent. - - 114388:75

Clear profit to the Front-street Corporation, 250926:25

The whole of which profit is on the land on the west side of the street, totally disconnected with the water privilege.

Schedule of Disbursements made, and to be made, on the Bridge and Land at South-Boston, by the Parties interested in promoting a new Bridge, to be supported by Vouchers, when called for, exclusive of the Land purchased.

Bridge,	-	-	-	-	dols.	56000
Levelling land, making sea wall, roads, &c.	-					40000
Turnpike,	-	-	-	-		44000
Estimate to complete filling up against sea wall already built,	-	-	-	-	-	30000
						<u>170000</u>
Deduct for shares in bridge belonging to opponents of the new bridge,	-	-	-	-	-	7000
						<u>163000</u>
The whole value of water privilege, as sold by Mr. Ellis, is	-	-	-	-	-	152500
					Dols.	<u>10500</u>

Thus it appears, that the sums actually expended by the parties interested in a new bridge, and still necessary to complete the filling up of the land at South-Boston, exceed the whole value of the water privilege of the Front-street Corporation, in the sum of 10500 dollars, taking the actual sales of one of its members for a standard !!!

